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Quick Learning, LLC

a Texas Limited Liability Company

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Quick Learning, LLC, a Texas Limited
Liability Company,

Plaintiff,

vs.

QUICKLEARNING.COM, an Internet
domain name,

Defendant.

Case No. C-07-06456-HRL

**NOTICE OF APPLICATION AND
APPLICATION FOR DEFAULT
JUDGMENT BY COURT;
DECLARATION OF DEEPA
KRISHNAN IN SUPPORT THEREOF**

[[Proposed] Default Judgment Filed
Concurrently Herewith]

Date: March 25, 2008

Time: 10:00 a.m.

Courtroom: 2, 5th Floor

KRONENBERGER BURGOYNE, LLP
150 Post Street, Suite 520
San Francisco, CA 94108
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1 **PLEASE TAKE NOTICE THAT** on March 25, 2008 at 10:00 a.m., or as soon as
 2 thereafter as this matter may be heard by the above-entitled Court, located at 280 South
 3 1st Street, San Jose, CA 95113, Plaintiff Quick Learning, LLC ("Plaintiff" or "Quick
 4 Learning") will present its Application for Default Judgment By Court (the "Application") as
 5 to the domain name QUICKLEARNING.COM (the "Domain").

6 Plaintiff filed its Complaint for Cybersquatting *In Rem* (the "Complaint") on
 7 December 21, 2007. (Declaration of Deepa Krishnan In Support of Application for
 8 Default Judgment By Court ("Krishnan Decl."), ¶ 3.) Plaintiff served the Complaint and
 9 Summons on the registrant of the Domain via Certified Mail, First Class Mail, Overnight
 10 Mail (Federal Express), and e-mail on December 28, 2007, pursuant to 15 U.S.C. §
 11 1125(d)(2)(B), as evidenced by the Proof of Service filed with the Court on January 23,
 12 2008. (*Id.*) The Clerk of this Court entered default as to QUICKLEARNING.COM on
 13 January 31, 2008. (*Id.* ¶ 5 & Exh. "A".) Plaintiff now seeks default judgment based on
 14 the following facts:

15
 16 1. QUICKLEARNING.COM is not an infant or incompetent person or in the
 17 military service or otherwise exempted under the Soldiers' and Sailors' Civil Relief Act of
 18 1940. (*Id.* ¶ 7.)

19 2. In its Complaint, Plaintiff alleged a cause of action for Cybersquatting Under
 20 Section 43(d) of The Lanham Act, 15 U.S.C. §1125(d)(2)(A), against the Domain.
 21 Plaintiff's Complaint requests injunctive relief against the Domain under 15 U.S.C.
 22 §1125(d)(1)(C), which allows for a court order transferring a disputed domain to the
 23 owner of the trademark contained in the disputed domain. (*Id.* ¶ 6.)

24 3. Plaintiff does not request an award of monetary damages or costs incurred in
 25 bringing this action. (*Id.*)

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1 Pursuant to 15 U.S.C. §1125(d)(1)(C), the Court should order the transfer of the
2 domain name QUICKLEARNING.COM to Plaintiff, the rightful owner of the
3 QUICKLEARNING trademark and QUICKLEARNING.COM domain name.

4 This Application is based on this Notice, the attached declaration of Deepa
5 Krishnan, and the pleadings, files and other matters that may be presented at the
6 hearing.

7
8 Respectfully Submitted,

9 DATED: February 12, 2008

KRONENBERGER BURGOYNE, LLP

10
11 /s/

12 Deepa Krishnan
13 Attorneys for Plaintiff
14 Quick Learning, LLC.
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DECLARATION OF DEEPA KRISHNAN

I, Deepa Krishnan, declare as follows:

1. I am an attorney with Kronenberger Burgoyne, LLP, counsel to Plaintiff Quick Learning, LLC ("Quick Learning") in this action. Except as otherwise stated, I have personal knowledge of the facts stated herein and could and would competently testify thereto.

2. Prior to filing the Complaint in this action, I and my colleagues reviewed the available WHOIS records for the Defendant domain QUICKLEARNING.COM ("Defendant"). The records revealed that QUICKLEARNING.COM is privately registered with the domain name registrar, Moniker Online Services, LLC ("Moniker"). Thus, the WHOIS records for the Defendant domain state the registrant to be "Moniker Privacy Services" ("Moniker Privacy").

3. Accordingly, on December 6, 2007, our office sent a notice to Moniker Privacy, pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(II). We sent the same notice to the domain name registrar, Moniker. The statute pursuant to which we sent the notice says, in pertinent part:

The owner of a mark may file an *in rem* civil action against a domain name in the judicial district in which the domain name registrar, domain name registry, or other domain name authority that registered or assigned the domain name is located if the court finds that the owner through due diligence was not able to find a person who would have been a defendant...by sending a notice of the alleged violation and intent to proceed under this paragraph to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; and publishing notice of the action as the court may direct promptly after filing the action.

In our notice sent pursuant to the above, we additionally asked Moniker and Moniker Privacy (collectively, the "Moniker Entities") to reveal the name of any other registrant, but to date, the Moniker Entities have failed to do so. On December 21, 2007, Quick Learning filed its *in rem* Complaint against Defendant. On December 28, 2007, Quick

1 Learning served the Complaint and Summons on the registrant of record, Moniker
2 Privacy, via Certified Mail, First Class Mail, Federal Express, and e-mail, at the contact
3 information provided publicly by the Defendant domain's registrar, pursuant to the service
4 requirement under 15 U.S.C. § 1125(d)(2)(A).

5 4. A true and correct copy of the Proof of Service, describing the above, was
6 filed with the Court on January 23, 2008 as Document 3 on the online Pacer docket. No
7 party answered, made an appearance, or filed any other responsive pleading in the
8 Action.

9 5. A Clerk's default was entered on January 31, 2008. A true and correct
10 copy of the Entry of Default is attached hereto as Exhibit "A".

11 6. This action involves a claim for injunctive relief by Plaintiffs against the
12 defendant domain name QUICKLEARNING.COM under 15 U.S.C. §1125(d)(1)(C), which
13 allows for a court order transferring a disputed domain name to the owner of the
14 trademark contained in the disputed domain. Plaintiff does not request an award of
15 monetary damages or costs incurred in bringing this action.

16 7. Neither QUICKLEARNING.COM nor, upon information and belief, the
17 registrant of the Domain, is an infant, incompetent person, or a person in military service
18 or otherwise exempted from default judgment under Soldiers' and Sailors' Civil Relief Act
19 of 1940.

20 I declare under penalty of perjury under the laws of the United States of America
21 that the foregoing is true and correct and that this Declaration was executed on February
22 12, 2008, in San Francisco, California.

23 /s/

24 _____
Deepa Krishnan

Exhibit A

UNITED STATES DISTRICT COURT
Northern District of California
280 South First Street
San Jose, California 95113

www.cand.uscourts.gov

Richard W. Wieking
Clerk

General Court Number
408.535.5364

January 31, 2008

RE: CV 07-06456 HRL QUICK LEARNING, LLC.-v- QUICKLEARNING.COM

Default is entered as to Defendant Qucklearning.Com on January 31, 2008.

RICHARD W. WIEKING, Clerk

by Betty Walton
Case Systems Administrator